

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

DONNIE LEE ECKLES,)
)
Plaintiff,)
)
vs.) 4:07-CV-0214-RBP-RRA
)
OFFICER YOUNG, et al.,)
)
Defendants.)

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on November 6, 2007, recommending that the defendants' motion for summary judgment be granted and the claim against Officer Young be dismissed with prejudice, and that plaintiff's claim against Prison Health Services that he was denied adequate medical care be dismissed without prejudice, because plaintiff failed to exhaust the administrative remedies of PHS. Plaintiff filed Objections to the Report and Recommendation on November 27, 2007. (Doc.#44)

Plaintiff also responded to the report and recommendation of the magistrate judge with a "Motion to Compel Production and Take Judicial Notice," (Doc.#40) a "Motion to Compel Discovery," (Doc. #41), "Rule 56(f) Motion" (Doc.#42), an "Affidavit of Donnie Lee Eckles Attachment to Rule 56(f) Motion (Doc.#45), and a motion for issuance of a subpoena for plaintiff's records from Dr. Salah Uddin, MD (Doc.#46) In three of these motions (Docs.# 40, #41, and #46) plaintiff seek copies of Dr. Uddin's report. The requested records were included in the special report filed by the defendants. (Doc. #19, p.186-188) Plaintiff filed a response to the special report of the medical defendants. (Docs.#25) Plaintiff also filed a Rule 56(f) motion (Doc.#42), after the report

and recommendation was filed, and claims that judgment should be postponed to allow him discovery. Plaintiff claims that he has been hampered in his attempt to litigate this suit because he has been allowed no discovery. Plaintiff's motions are either moot or untimely filed and are therefore DENIED.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections filed by the plaintiff, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact and that the defendants are entitled to judgment as a matter of law. Accordingly, Officer Young's motion for summary judgment is due to be GRANTED and this action against him is due to be DISMISSED WITH PREJUDICE. Further, the Medical Defendants' motion for summary judgment is due to be GRANTED and the claims against them DISMISSED WITHOUT PREJUDICE because plaintiff failed to exhaust the administrative remedies of PHS. A final order will be entered.

DONE this the 19th day of February, 2008.



ROBERT B. PROPST
UNITED STATES DISTRICT JUDGE